

**FILED** IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
2010 FEB 10 P 3 59 ~~NORTHERN~~ DIVISION  
NORTH EASTERN

U.S. DISTRICT COURT  
**CARLOS FRAZIER**, an individual, )  
PLAINTIFF, )  
VS. ) **CIVIL ACTION NO.**  
CITY OF HUNTSVILLE, as a person under )  
U.S.C. § 1983; CITY OF HUNTSVILLE ) **CV-10-J-0322-NE**  
POLICE DEPARTMENT, as a person under )  
§ 1983; CHIEF HENRY REYES, individually )  
and in his official capacity; )  
OFFICER ANTHONY SHARPER individually )  
and in his official capacity; OFFICER JOHN )  
DOE, the supervising training officer whose )  
name will be determined through subsequent )  
discovery, )  
DEFENDANTS. )

**COMPLAINT**

1. Plaintiff brings this civil rights action to vindicate Plaintiff's rights under the United States Constitution, the Alabama State Constitution, and under the statutory laws of the United States of America. Plaintiff also seeks damages available to him under Alabama statutes and Alabama common law.

2. This is an action for damages sustained by a citizen of the United States against Officers Anthony Sharper in his individual and official capacity, the City of Huntsville, Chief of Police, Henry Reyes, in his official capacity only, and Officer John Doe, in his/her individual and official capacity, for injuries sustained by the Plaintiff on or about February 10, 2008.

3. On or about February 10, 2008, Plaintiff was stopped by the Defendant, Officer Anthony Sharper under the alleged suspicion that the plaintiff's vehicle was involved in criminal activity earlier that day.

4. Defendant Officer Anthony Sharper, in the presence of Officer Dustin Williams, negligently, willfully and/or wantonly and with excessive force slammed the Plaintiff's body onto the ground, causing injury to the plaintiff's back and neck. Defendant Officer Anthony Sharper, in the presence of Officer Dustin Williams, negligently, willfully and/or wantonly and with excessive force choked the Plaintiff's neck and struck Plaintiff in the jaw, causing injury to the plaintiff.

5. As a result of Officer Sharper's wrongful conduct, the plaintiff was caused to suffer injury to his back, neck and jaw.

6. Despite the plaintiff's pre-existing medical conditions, the Defendant, Officer Sharper continued to assault the plaintiff causing him continuous pain and injury.

7. In addition to violations of Alabama State tort law, the defendants' conduct evinces a disregard for the Plaintiff as a citizen of the State of Alabama and of the United States of America. The Defendants violated the Plaintiff's right against cruel and unusual punishment as set forth in the Eight Amendment to the United States Constitution and/or the Due Process Clause of the Fourteenth Amendment and/or Article I, Section 15 of the Alabama Constitution.

8. This is also an action against the City of Huntsville's for its policies and regulations, and/or as a result of the City of Huntsville's customs, which resulted in the alleged constitutional deprivations.

### **JURISDICTION**

9. The jurisdiction of this Court is involved pursuant to 28 U.S.C. §§ 1331, and 1343(a) to obtain redress for deprivation of rights guaranteed by the Fourth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States pursuant to 42 U.S.C. § 1983 and conspiracy to interfere with his civil rights under 42 U.S.C. § 1985.

10. The Plaintiff also invokes the supplemental jurisdiction of this Court for state law claims that arise from the same facts and circumstances under 28 U.S.C. § 1367 and pendant claims under FRCP 18(a).

7. Venue is proper pursuant to 28 U.S.C. § 1393(b), in that the events or occurrences giving rise to Plaintiff's claims occurred in the Northern District of Alabama, and pursuant to Alabama Code §§ 6-3-2 and 6-3-11 (1975).

### **PARTIES**

6. Plaintiff, Carlos Frazier, (hereinafter referred to as "Frazier"), is a citizen of the United States, a citizen of the State of Georgia, At the time of the incident making the basis of this Complaint he was 35 years of age.

7. Defendant City of Huntsville is a municipal corporation within the State of Alabama.

8. Defendant Henry Reyes, (hereinafter referred to as "Reyes"), is the Chief of Police for the City of Huntsville Police Department.

9. Defendant Officer Anthony Sharper (hereinafter referred to as "Sharper") is a police officer who caused the Plaintiff bodily injury and mental anguish. Defendant Sharper is sued in his individual and official capacity.

10. Defendant John Doe (whose name is not known, hereinafter referred to as “Doe”) was the supervising training officer for the City of Huntsville who was charged with the training of Officer Sharper. Defendant Doe is sued in his individual and official capacity.

### **STATEMENT OF THE FACTS**

11. On February 10, 2008, Plaintiff was stopped by the Huntsville Police department. Plaintiff was dragged out of his vehicle and assaulted after he asked why he was being stopped. Plaintiff was told that his vehicle matched a vehicle that was allegedly involved in a shooting earlier that afternoon.

12. As a result of Officer Sharper’s wrongful conduct, the plaintiff was caused to suffer injury to his back, arm and jaw.

13. As a direct and proximate result of the conduct described above, Plaintiff suffered severe and permanent bodily injury, emotional distress, physical and psychological injuries, additional expenses and loss of income.

### **COUNT I**

#### **EXCESSIVE FORCE**

14. Defendant Sharper, exercising his position of authority and acting under the color of state law in his capacity as a public official and representative of the City of Huntsville, unlawfully subjected the Plaintiff to excessive and unnecessary force when he slammed the Plaintiff to the ground and proceeded to choke him and strike him about the face and head, causing him damage to his back and neck. Defendant Sharper caused the Plaintiff bodily injury in violation of Plaintiff’s constitutionally protected rights under the

Fourth Amendment of the United States Constitution. As a direct and proximate result, Plaintiff sustained physical and psychological injury and additional expenses.

**COUNT II**

**ASSAULT AND BATTERY**

15. Plaintiff incorporates by reference paragraphs 1 through 14 of the Complaint as if fully set out herein.

16. Defendant Sharper exercised his position of authority and acting under the color of State Law in his capacity as a public official and representative of the City of Huntsville and City of Huntsville Police Department, assaulted and battered Plaintiff by willfully, wantonly and/or intentionally inflicting physical harm on him. Said activity was known by the Defendants to carry medical risks and to injure the Plaintiff. As a direct and proximate result, Plaintiff suffered physical and psychological injuries, and incurred additional expenses.

**COUNT III**

**NEGLIGENCE**

17. Plaintiff incorporates by reference Paragraphs 1 through 16 of the Complaint as if fully set out herein.

18. Defendants City of Huntsville and City of Huntsville Police Department and Reyes owed a duty to Plaintiff to maintain his safe and secure environment. Defendants failed to monitor the activities of the law enforcement officials and negligently failed to supervise them and said negligence proximately caused physical, psychological and emotional injuries to the Plaintiff as well as incurring additional expenses.

**COUNT IV**

**INADEQUATE TRAINING AND SUPERVISION**

19. Plaintiff incorporates by reference Paragraphs 1 through 18 of the Complaint as if fully set out herein.

20. Defendants City of Huntsville, City of Huntsville Police Department and Reyes negligently failed to adequately train and supervise Defendant Sharper. Based on his conduct, he was incompetent to perform his duties as an officer. As a result of the acts and omissions of the Defendants, Plaintiff has suffered physical and psychological injury as well as incurring additional expense.

**COUNT V**

**NEGLIGENT HIRING**

21. Plaintiff incorporates by reference Paragraphs 1 through 20 of the Complaint as if fully set out herein.

22. Defendants City of Huntsville, Huntsville Police Department and Reyes, knowing Defendant Sharper was an improper candidate for employment and/or retention by the Huntsville Police Department and City of Huntsville, negligently hired and retained Defendant Sharper. As a result, Plaintiff has suffered physical and psychological injury as well as incurring additional expenses.

**COUNT VI**

**TORT OF OUTRAGE**

23. Plaintiff incorporates by reference Paragraphs 1 through 22 of the Complaint as if fully set out herein.

24. Defendant Sharper caused Plaintiff to suffer great physical and emotional

distress and other such matters as alleged herein.

25. Said Defendant's actions toward the Plaintiff were so outrageous in character, and so extreme in degree as to go beyond all possible bounds of decency, and are atrocious and utterly intolerable in a civilized society. The emotional distress and bodily injury that the Defendant caused the Plaintiff to suffer were so severe that no reasonable person could be expected to endure it.

WHEREFORE, Plaintiff prays as follows:

1. That this Court assume jurisdiction of this cause and exercise its supplemental jurisdiction of the State claims.
2. That this Court grant Plaintiff compensatory and punitive damages against each of the individual Defendants and the City Defendants in their individual capacities.
3. That this Court award Plaintiff his costs and reasonable attorney' fees.
4. That this Court award such other and further relief as this Court may deem appropriate.

s/William T. Fortune

William T. Fortune

ASB0701-M72F

Attorneys for Plaintiff

OF COUNSEL:

**FORTUNE LAW FIRM**  
1037 22<sup>nd</sup> Street South, Suite 101  
Birmingham, Alabama 35205

Plaintiff demands a trial by struck jury of all causes in this action.

OF COUNSEL

Plaintiff's Address:

1037 22<sup>nd</sup> Street South, Suite 101  
Birmingham, Alabama 35205

**PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL AS FOLLOWS:**

Defendant's Address:

City of Huntsville  
C/O Tommy Battle, Mayor  
308 Fountain Circle  
Huntsville, AL 35801

Officer Sharper  
C/O City of Huntsville Police Department  
815 Wheeler Avenue  
Huntsville, Alabama 35802

City of Huntsville Police Department  
C/O Chief Henry Reyes  
815 Wheeler Avenue  
Huntsville, Alabama 35802

Chief Henry Reyes  
815 Wheeler Avenue  
Huntsville, Alabama 35802